

Legislative Updates

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SB 20 – Electronic Waste Recycling Act

Q – Is there any dollar limitation

A – None in statute.

Q - For informal telephone price quotes will we still be required to get written certification from supplier?

A – Yes, unless law waives certain requirements.

Q – What about when using Cal-Card?

A – Cal-Card is a payment method therefore all requirements of purchasing including obtaining certifications have to be complied with.

SB 578 – Sweatfree Code of Conduct

Q – Is this for just goods and services or every purchase we make including IT?

A – Presumably all purchases, does not distinguish and there is no dollar threshold.

Q – Is there a definition for solicitation, informal vs. formal?

A – No

Q – This is in effect now and DIR doesn't have the certification form?

A – Yes

Q – Is this going to be a standard form?

A – Not sure, if it will be a standard form through OSP. DIR will create the form.

Q – For both SB 640 and SB 578, is it the supplier's responsibility to supply the certification or is it the buyer's responsibility to obtain it?

A – It is the supplier's responsibility to submit a responsive bid that meets all the requirements and it is the buyer's responsibility to evaluate it to make sure they did.

Q – Does this apply to every transactions phone bids, etc.?

A – Yes it does. There is no dollar threshold.

Q – Do we have a repeatable process? Because of the broad language used in the bid it's all subject to interpretation and we look to DGS to interpret it and you don't then it's left up to each department.

A – We do try to set the broad policy requirements. When the law doesn't give us much room to wiggle – when it doesn't impose a threshold, all means all. Unless we have another statute that provides relief from these kinds of certification requirements, which we hope this new law will, then Cal-Card could really be used as a purchasing method.

SB 1009 – Reseller’s Permit

Q – Do you have to get it from all bidders or the one you are awarding?

A – We ask that you get it from all bidders but you **must** get it from the awarding vendor.

Q – Does it have to be postdated to the bid?

A – No, as long as they get the certificate in within 5 days of when it is requested.

AB 669 – Commercially Useful Function

Q – How does that work when you have people out there who are buyers and claim to be a SB and get their product from a large entity, they put in an order, and the stuff is shipped to them then shipped to you?

A – A lot of them function as distributors and do serve a useful purpose. They order the goods, redistribute, follow up on orders, and do customer service work. We expect with the new forms there will be a way you can ask each bidder to explain what work they will be doing as a prime or subcontractor so that you will be able to evaluate whether it is a commercially useful function or not. We hope to over time develop some industry standards.

Q – Will all new legislative changes be listed in PAM?

A - Yes

AB 296

Q – On page 5 of the handout for AB 296 (amended by AB 1756) it states that DGS will determine which solicitations will include this language. Does that mean that the suggested language should not be put in our boilerplate bidder’s instructions and that it should not be in the solicitation package unless DGS tells us to do it? Should this suggested language also be put in the bidder’s instructions for public works contracts?

A – The suggested language that was discussed and provided as Appendix 1 is being used by PD now and your agency may elect to use it too. We recommend it be used in all solicitations or you can develop your own attachment to alert potential bidders to new statutory requirements if you choose to. But if you don’t, it does not excuse bidders from knowing what the law requires. Since appropriate corresponding changes have been made to Bidder Instructions (for goods solicitations) and in the General Provisions for both goods/IT and you are required to use those in all goods/IT solicitations/contracts over \$5,000 (and below that if you want to), the information is communicated that way too, where it can be enforced in the contract.

In regards to the new PCC 6611, DGS is in the process of developing a policy and appropriate solicitation documents to be incorporated in the selected solicitations and contracts where DGS expects to negotiate. This will explain in detail in the context of particular transactions that we select, what the process is if DGS elects to negotiate prior to award. In those cases where DGS elects to reopen an existing contract and renegotiate

it, it would take the contractor's consent to do so and there will be a process to decide what contracts would be appropriate for that action and how that will be done. Since only DGS can actually implement the new law there will not be a situation when DGS tells you to incorporate the PCC 6611 bid and negotiation instructions into a solicitation because only we can conduct the bid and award the contract. When you use the suggested solicitation language, all it is doing is alerting companies that this new law exists and it says, more information will be provided (and that's in the works as we speak.